



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,038	02/09/2004	Todd F. Ovokaitys	2827.GEMA.CIP	6904
27472	7590	10/03/2007		
RANDALL B. BATEMAN BATEMAN IP LAW GROUP 8 EAST BROADWAY, SUITE 550 PO BOX 1319 SALT LAKE CITY, UT 84110			EXAMINER SHAY, DAVID M	
			ART UNIT	PAPER NUMBER
			3735	
			MAIL DATE	DELIVERY MODE
			10/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/775,038

Applicant(s)

OVOKAITYS

Examiner

david shay

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 9, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-144 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-144 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3735

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 113-144 have been renumbered 113-145. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12, drawn to a method of modifying the bioavailability of a bioactive substance, classified in class 128, subclass 898.
- II. Claims 13-15, drawn to a method of modifying the production of nitric oxide in a mammal, classified in class 128, subclass 898.
- III. Claim 16, drawn to a method for increasing homogeneity and flattening of a bioactive substance, classified in class 128, subclass 898.
- IV. Claims 17-21, drawn to a method of reducing blood levels of homocysteine, classified in class 128, subclass 898.
- V. Claims 22-26, drawn to a method for treating anxiety, classified in class 128, subclass 898.
- VI. Claims 27-31, drawn to a method for treating depression, classified in class 128, subclass 898.
- VII. Claims 32-36, drawn to a method for treating obsessive compulsive symptoms, classified in class 128, subclass 898.

Art Unit: 3735

- VIII. Claims 37-41, drawn to a method for treating paranoia, classified in class 128, subclass 898.
- IX. Claims 42-46, drawn to a method for treating hostility, classified in class 128, subclass 898.
- X. Claims 47-51, drawn to a method of treating perceptions of bodily distress, classified in class 128, subclass 898.
- XI. Claims 52-56, drawn to a method of increasing systemic DNA methylation and SAME levels, classified in class 128, subclass 898.
- XII. Claims 57-59, drawn to a method for treating autoimmune disorders, classified in class 128, subclass 898.
- XIII. Claims 60-64, drawn to a method for treating elevated serum total cholesterol levels, classified in class 128, subclass 898.
- XIV. Claims 65-69, drawn to a method for treating elevated serum LDL cholesterol levels, classified in class 128, subclass 898.
- XV. Claims 70-74, drawn to a method for treating elevated serum total-to-HDL cholesterol levels, classified in class 128, subclass 898.
- XVI. Claims 75-79, drawn to a method for treating elevated systolic blood pressure, classified in class 128, subclass 898.
- XVII. Claims 80-84, drawn to a method for treating elevated diastolic blood pressure, classified in class 128, subclass 898.
- XVIII. Claims 85-89, drawn to a method for treating erectile dysfunction, classified in class 128, subclass 898.

- XIX. Claims 90 and 91, drawn to a method for improving immunologic function, classified in class 128, subclass 898.
- XX. Claims 92 and 93, drawn to a method for modifying amino acids to reduce immune reaction, classified in class 128, subclass 898.
- XXI. Claims 94 and 95, drawn to a method for modifying amino acids to reduce inflammation, classified in class 128, subclass 898.
- XXII. Claims 96-98, drawn to a method of increasing the voltage potential of the brain, classified in class 128, subclass 898.
- XXIII. Claims 99-101, drawn to a method for improving the coherence of brain wave patterns, classified in class 128, subclass 898.
- XXIV. Claims 102 and 103, drawn to a method for improving the quality of crystal formation, classified in class 128, subclass 898.
- XXV. Claims 104 and 105, drawn to a method for improving the quality of crystals, classified in class 128, subclass 898.
- XXVI. Claims 106 and 107, drawn to a method for generating highly crystalline and homogeneous simvastatin, classified in class 117, subclass 11.
- XXVII. Claims 108 and 109, drawn to a method for generating amorphous simvastatin, classified in class 117, subclass 11.
- XXVIII. Claims 110 and 111, drawn to a method for improving immunologic function, classified in class 117, subclass 11.
- XXIX. Claims 112, and 113, drawn to a method for improving immunologic function, classified in class 117, subclass 11.

- XIX. Claims 114 and 115, drawn to a method for modifying hydrogen bonding in a crystal, classified in class 204, subclass 157.15.
- XXX. Claims 116-118, drawn to a method for improving immunologic function, classified in class 128, subclass 898.
- XXXI. Claims 119 and 120, drawn to a method for modifying immunologic function, classified in class 128, subclass 898.
- XXXII. Claim 121, drawn to a method for increasing the depth of penetration of electromagnetic energy for photodynamic therapy, classified in class 607, subclass 89.
- XXXIII. Claims 122 and 123, drawn to a method of homogenizing, flattening, and reducing the distortion of backbone twist distortion of aromatic amino acids and any other dopaminergic, catecholaminergic, or serotonergic precursor, compound or pharmaceutical agent to enhance the bioavailability of the modified molecular structure, classified in class 204, subclass 157.15.
- XXXIV. Claims 124 and 125, drawn to a method of homogenizing, flattening, and reducing the distortion of backbone twist distortion of a nutrient, pharmaceutical agent or other bioactive substance to enhance the bioavailability of the modified molecular structure, classified in class 204, subclass 157.15.
- XXXV. Claims 126 and 127, drawn to a method for increasing the bioavailability of nucleic acid bases, nucleosides or deoxynucleosides, or nucleotides or deoxynucleotide monophosphates, diphosphates, or triphosphates, classified in class 204, subclass 157.15.

- XXXVI. Claims 128 and 129, drawn to a method for increasing the bioavailability of high energy phosphates of neucleotides or deoxynucleotides, classified in class 128, subclass 898.
- XXXVII. Claim 130, drawn to a method for increasing the bioavailability of nucleic acid bases, nucleosides or deoxynucleosides, or neucleotides or deoxynucleotide monophosphates, diphosphates, or triphosphates, classified in class 204, subclass 157.15.
- XXXVIII. Claim 131, drawn to a method of amplifying or modifying the production or purification of a selected stereoisomer or epimer of a bioactive substance, classified in class 204, subclass 157.15.
- XXXIX. Claims 132-134, drawn to a method of reshaping prions or other pathogenic proteins to reduce their pathogenicity, classified in class 204, subclass 157.15.
- XL. Claims 135-137, drawn to a method of reshaping pathogenic substances or components of infectious pathogens to reduce their pathogenicity, classified in class 204, subclass 157.15.
- XLI. Claims 138-140, drawn to a method of selectively activating specific regions of selected molecules to increase the production of desired products in a chemical reaction, classified in class 204, subclass 157.15..
- XLII. Claims 141 and 142, drawn to a method of selectively activating molecular species or specific regions of molecular species to generate a signal for qualitative or quantitative detection or analysis, classified in class 204, subclass 157.15..

Art Unit: 3735

XLIII. Claim 143, drawn to a method for creating sub-picosecond laser pulses, classified in class 372, subclass 25.

XLIV. Claim 144, drawn to a method of creating a tightly coherent string of sub-picosecond laser pulses, classified in class 372, subclass 29.02.

XLV. Claim 145, drawn to a method of creating a structured electromagnetic field, classified in class 250, subclass 526.

The inventions are distinct, each from the other because:

They are all distinct methods

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed

Art Unit: 3735

errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

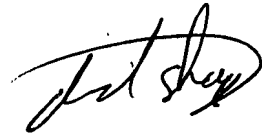
Any inquiry concerning this communication or earlier communications from the examiner should be directed to david shay whose telephone number is (571) 272-4773. The examiner can normally be reached on Tuesday through Friday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II, can be reached on Monday, Tuesday, Wednesday, Thursday, and Friday. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 3735

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330